

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

GERALD RAY BARROW,

Plaintiff,

VS.

MR. GARZA,

Defendant.

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CIVIL ACTION NO. C-08-222

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO DENY PLAINTIFF'S
MOTION TO PROCEED *IN FORMA PAUPERIS***

On August 8, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that plaintiff's action be dismissed and that his motion to proceed *in forma pauperis* (D.E. 17) be denied without prejudice subject to payment of the full filing fee of \$350.00. The Memorandum and Recommendation further recommended that should the Court adopt the recommendation, the dismissal be characterized as one described by 28 U.S.C. § 1915(g), and that the Clerk be directed to provide a copy of the order of dismissal to: **District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Betty Parker.** On August 20, 2008, the plaintiff filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and plaintiff's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED as follows:

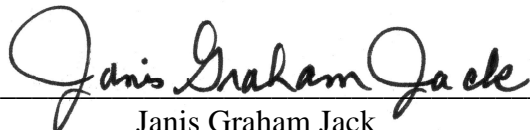
1) the plaintiff's motion to proceed *in forma pauperis* (D.E. 17) is denied without prejudice subject to payment of the full filing fee of \$350.00;

2) the plaintiff's action is dismissed; and

3) the Court characterizes this dismissal as one described by 28 U.S.C. § 1915(g) and the Clerk is directed to provide a copy of this order of dismissal to: **District Clerk for the Eastern District of Texas\, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Betty Parker.**

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 27th day of August, 2008.



Janis Graham Jack
United States District Judge